

# TOWN OF TOWNSEND

March 5, 2014

## Public Hearing Minutes

## Council Meeting Minutes

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### Board of Adjustment Hearing: 7:00 pm

#### I. Call to Order: 7:00 pm

- a. Roll Call: Mayor Jermaine Hatton, TE Owen Hyne, TA Fred Townsend, TC Cathy Beaver, Jamie Sechler and Mark James representing Capital Development Partners.
- b. Visitors: 6
- c. Pledge: Pledge was said.

#### II. Variance request for relief from strict adherence to three (3) zoning codes to permit a Dollar General to be built at 101 Main Street

- a. TE Hyne stated Capital Development Partners (CDP) is preparing a land development application for the owner of the property at the corner of Rt. 71 and Main Street. During the land development review, 3 items came up that they are requesting a variance for relief from the codes.
  - i. 1) relief from the 30' entrance on Main Street, they need a 35' turning radius for the delivery trucks
  - ii. 2) relief from the requirement to have two (2) loading docks, Dollar General only needs one (1) loading dock and,
  - iii. 3) relief from the requirement for parking spaces to be 15' from the adjoining properties. DelDOT required an additional 10' right-a-way putting the parking spaces closer than 15'.
- b. Jamie Sechler added they are asking for 3 variances. The site is a corner lot. Dollar General uses the largest tractor trailer made. These trucks need a 35' turning radius. If it is only 30' wide the driver will keep running over the landscaping so we are asking for an additional 5' which will keep the site looking nice.
- c. DelDOT required an additional 10' right-a-way for this project putting the parking spaces only 2-3 feet away from the right-a-way. Don't believe they will ever use the right-a-way and hope we can get permission to park cars closer than the 15' required by codes to the property line.
- d. Town codes require 2 loading docks, Dollar General gets all their supplies from corporate trucking and there will never be more than one truck on site so we only need one loading dock.
- e. TA Townsend asked if there is a designated loading zone.
- f. Mr. Sechler said yes, at the back.
- g. TA Townsend asked if for the record they are stating there will not be more than one delivery truck at a time and was told yes.
- h. TE Hyne asked for the square footage of the building and was told 9100 square feet.
- i. TA Townsend asked if the parking spaces could be relocated on the parcel and was told no.
- j. Mr. Sechler said DelDOT required the 10' additional right-a-way because of the sidewalk and pedestrian facilities Dollar General is installing. DelDOT requires them to be in the right-a-way.
- k. TE Hyne added that the design shows between the parking spaces and curb line a grassy space. It doesn't but right up to the curb line, has a nice buffer.
- l. Mr. Sechler said they will also be doing the landscaping required by Town code. He clarified that the parking spaces will still be on their property but closer to the right-a-way than permitted by Town code. The sidewalk will be within the right-a-way.
- m. TA Townsend said he doesn't believe this would cause a pedestrian safety concern and any other retail development on this site would have the same issues. The site is not being overbuilt, not a really large building.
- n. TE Hyne added that the acute angle of the property makes the site a little tighter. They also have to install some surface stormwater management facilities.
- o. TA Townsend noted the other three (3) corners of the intersection are occupied with commercial business.
- p. Mayor Hatton opened the floor for public discussion.
- q. CW Gorman asked if there is only one entrance/exit.
- r. Mr. Sechler showed the residents the rendering of the property showing an entrance/exit on Rt. 71 and a second one on Main Street.
- s. CW Gorman asked if the delivery trucks would remain onsite overnight and was told no, they will unload and go.

- t. TA Townsend said for the record, Dollar General builds a lot of these buildings. He asked if they follow a particular model per square footage or vary greatly by the parcel.
- u. Mark James stated there are several different sized prototypes. This is the “War Horse” model. This is the smallest prototype; the larger model would not fit on this lot.
- v. TA Townsend stated this is a model, a prototype, and asked if 10 feet could be knocked off of it and Mr. James said no, they are pretty strict with us.
- w. TA Townsend motioned to approve the three (3) variance requests, it is a proposed commercial development in a commercial area, not out of place in this area; the proposed development is a standardized request; granting relief won’t cause any harm, the developer is not trying to take advantage of a site that is inadequate. Other establishments would suffer the same consequences and ask for relief.
- x. TE Hyne seconded the motion.
- y. In the discussion, TA Townsend added the first variance request is for relief from the 30’ width to 35’ width turning radius, the second request is for relief from the 15’ setback for parking and the third request is for relief from two loading docks to one dock.
- z. There was no further discussion.
- aa. Vote: unanimous to approve all three variance requests.

**III. Adjournment:** 7:19 pm, TA Townsend motioned, TE Hyne seconded, vote unanimous.

## **Council Meeting - 7:30 pm**

### **I. Call to Order:** 7:30 pm

### **II. Opening Ceremonies**

- a. Roll Call: Mayor Jermaine Hatton, CM John Ness, CW Lorraine Gorman, TE Owen Hyne, TA Fred Townsend, TM Dawson Green, TC Cathy Beaver. CM Joel Esler and CM Rudy Sutton were not able to attend.
- b. Pledge of Allegiance: Pledge was said.
- c. Recognition of Visitors: 10 guests
- d. Announcements:
  - Residents must be registered at the Town Hall to vote in Townsend Elections. Please bring your ID to register on any of the following dates:
    - Monday – Friday, 8:00 am – 4:00 pm
    - Wednesday, March 19, 2014, 6:00 – 8:00 pm
    - Saturday, April 5, 2014, 9:00 am – noon
  - April 17, 2014 is the deadline for registering to vote in the election on May 3, 2014.
  - If you are interested in running for Town Council, candidate packets are available to pick up at the Town Hall. These must be turned in by Thursday, April 3, 2014.
  - Elections are Saturday, May 3, 2014 @ Town Hall, 8:00 am – 6:00 pm.
  - There are two (2) seats up for election, those held by Mayor Jermaine Hatton and CM Joel Esler.

### **III. Additions/Deletions to Published Agenda:**

- a. Mayor Hatton stated we will strike the public works and charter committees since the chairs are not here.
- b. There is not a quorum so there will be no voting in this meeting.

### **IV. Council Minutes** (copies on back table )

- January 29, 2014 Workshop minutes approved at workshop
- February 5, 2014 Council minutes approved at workshop

### **V. Reports of the Officers**

- a. State Police: Lt. Tom Paskevicius
  - Lt. Tom introduced himself again and apologized for not attending the last meeting. He added he took over the criminal side for Troop 9 in January.
  - The crime trends were copper thefts from new home developments in January, did a lot of surveillance, primarily in Smyrna and just outside Townsend, arrested several people for 22 thefts. They are each facing 57 criminal charges, both are in prison. It was a great arrest.
  - There were break-ins and thefts at the Appoquinimink Pediatrics and the Bay Animal Hospital last month and a suspect has been arrested.

- We have two (2) man cars patrolling, there is a high amount of drug trafficking on Rt. 1 and Rt. 13, and many arrests have been made.
  - Please call me if you have any concerns.
  - Mayor Hatton asked if the citizen academy is starting back up.
  - Lt. Tom said yes and will email the dates.
  - Mr. Mack said there is a lot of activity going on back by the woods past his house at the end of South Street near the railroad tracks. During the snow storms you can see the footprints of 3-4 people going back there.
  - Lt. Tom said to call the police every time he sees something, time is very important.
  - Mr. Mack said he calls every time.
  - TA Townsend asked Lt. Tom if he has any experience inspecting shoplifters and can he give an estimate on how bad shoplifting is.
  - Lt. Tom said different establishments have different security and we are only aware of what is reported. Currently the Walmart in Cheswold keeps us busy, Cheswold is getting ready to annex them and it will no longer be in our jurisdiction. We also have a lot of calls for Redners.
  - TA Townsend asked how Lt. Tom thought Dollar General will do.
  - Lt. Tom said it is inevitable that there will be shoplifting. Depending on the time of year it could be busier. Inadequate security systems or no security guards make it worse. We rarely get calls for shoplifting in this area.
- b. Representative: Jeff Spiegelman
- DelDot was supposed to appear before the bond committee Tuesday and got snowed out but they asked for 5 million dollars for municipal street aid last year and got it and are going to ask for the same amount this year.
  - Mayor Hatton said the Governor attended the DLLG dinner and discussed this. MSA helps the Town take care of the streets and take care of pot holes in the roads. Governor Markell said a lot depends on the replenishment of DelDots trust fund which will take care of all the street projects.
  - Dwain Haines asked Representative Spiegelman to elaborate on the water tax.
  - Rep. Spiegelman said the Governor has proposed a clean water tax, called a rain tax in Maryland. Essentially it is a tax on property, approximately \$45.00 per household per year with ½ acre of land. Larger properties will have a higher tax. We are still getting more details; I have some real concerns about this tax.
  - Mayor Hatton asked where Rep. Spiegelman stands on the 10 cent gas tax.
  - Rep. Spiegelman said he understands the need to put the money back into the Department of Transportation and the Secretary has actually proposed a very good borrowing scheme to get the second half of the money to go into the transportation fund. In our caucus, rather than doing the tax we are proposing moving the transportation funding into the budget itself, which is where it should be. So far they are saying no, they aren't willing to do that. To us, it would enable us to better allocate funds where they need to go in the transportation fund, they aren't willing to negotiate at this time. If they won't negotiate, I will vote no on the gas tax.
  - Mr. Haines said he has talked to all the representatives before. There is a lot of waste in the state because they have certain procedures. Why can't procedures be changed? When we order a part and it is the wrong part, rather than send it back they just re-order the part again, yet they want to take everything away from us and raise everything. Tired of working overtime to pay my bills. It's ridiculous. I've talked to a lot of you and nobody is doing anything.
  - Rep. Spiegelman said in terms of cutting down on waste in the Department of Transportation, it is part of the process of Sunset, part of the JFC and it's very hard to get any kind of accountability from a government if it is controlled by a small group of people.
- c. Townsend Fire Department: Bob Biggs/Keith Shoemaker
- The Middletown Chamber of Commerce Expo is Thursday 3/6/14, 3:00 pm – 7:00 pm. There will be roughly 600 people coming through here. It's usually in Middletown but they decided to have it here this year.

## VI. Reports

- a. Fred Townsend III, Attorney: nothing to report
- CW Gorman asked how the letter is coming along for the notice of demolition.

- TA Townsend stated he approved the letter.
  - TM Green said the letters were mailed and the property was posted today to show cause. The hearing is on April 2, 2014 at 7:00 pm, prior to the Council meeting at the Fire Station.
  - Mr. Rocke asked what happens next, can they pay up, fix up or what.
  - TA Townsend stated in order for the Town to take action they first have to notify the property owner and give them an opportunity to come in and hear the evidence which would be a report from our building inspector on how many violations exist and the property owner is given an opportunity to give evidence in his defense. Then Council will make a decision on taking certain actions, including the possible demolition of the structure at 316 Gray Street. After a period of time in which the property owner doesn't remedy the violations, Council could retain a contractor to demolish the building and place a lien on the property to recover the cost. It isn't an easy process.
  - Mr. Rocke said it sounds like another streetscape, will take years
  - TA Townsend said no, this will not take long.
  - Mr. Rocke asked what happens if they don't show up.
  - TA Townsend said if they don't show up, the building inspector will explain to Council the evidence, his findings, and Council will order an enforcement action.
- b. Owen Hyne, Engineer:
- Land development is held up due to weather.
  - The park lighting is out to bid. There was a mandatory pre-bid meeting held today, a dozen contractors showed up for the meeting. The bids will be opened prior to the workshop on March 19, 2014 at 6:30 pm.
  - The change order for the streetscape was approved by DelDot, will vote at the workshop to approve the change, no quorum tonight.
- c. Dawson Green, Town Manager:
- CW Gorman pointed out a few glitches in the website, working on them now.
  - Bob Ehemann from DNREC granted the extension on the park grant. It is good until 12/31/14 with the same scope of work.

## **VII. Committee Reports**

- a. Finance Committee: Chair – Mayor Jermaine Hatton
- Finance Report
    - Total assets - \$3,696,208.90
    - Total liabilities - \$4,189,502.73
  - We are ahead of the projections on the budget; we are making more and spending less.
  - Next year we should have a stronger budget and if Dollar General is actually built, it will bring more revenue into Town.
- b. Land Use & Development Committee: Chair – Mayor Jermaine Hatton
- Not much going on, most have heard me talk about overall sewer capacity, if have any more development we are out of capacity. Had a meeting today and am encouraged NCC will let us have more capacity.
  - The last few months 6 parcels of land approved to annex into Town eventually, so having lots of discussion with the county.
  - Mr. Rocke asked where things stand with a new Town Hall.
  - Mayor Hatton said we are still looking to acquire something to use for a Town Hall, using tax payer dollars and we need to make sure we are judicially responsible. We are constantly looking; believe we have outgrown our current Town Hall.
  - Mr. Rocke stated a couple months ago it was a must.
  - Mayor Hatton said it is still a must; we have to move but have to be judicially responsible.
- c. Community Relations – Chair - CM Joel Esler, Co-Chair CW Lorraine Gorman
- CW Gorman said we have re-instituted mailing the newsletter. It is a useful tool, especially for new residents. Should receive a copy within the next couple days with lots of news, would like feedback from residents, do you like it, is there more you want in it, should it be online?
- d. Public Safety Committee: Chair – CM John Ness – nothing to report.
- e. Parks & Recreation Committee: Chair – CW Lorraine Gorman
- National Wildlife Week – March 17-23

- Townsend Nature Walk @ Blackbird Creek Reserve Thursday, March 20, 2014, 5:30 – 6:30 pm. Free guided tour, call Town Hall to register.
- Townsend Easter egg hunt – Sunday, April 13, 2014 @ 12:00 (noon)
  - Rain date – Saturday, April 19, 2014 @ noon
  - There will be an Easter bonnet and crazy hat contest prior to the egg hunt.
  - Will have hot dogs, sweets and water also.

**VIII. Unfinished Business - none**

**IX. New Business - none**

**X. Citizens Comments & Participation**

- a.* Mr. Rocke asked where things stand with trash collection, are we gaining ground with people paying or being cut off.
- b.* Mayor Hatton said the new ordinance passed in February, if don't pay for 2 months, trash is cut off. Letters are being worked on now. Have much more consistency with payments than in the past.
- c.* Mr. Mack asked about the letter they received about snow removal.
- d.* TM Green stated the Town did not send these letters out to residents but he understands they are asking for \$200.00.
- e.* Mayor Hatton said BC Communities sent the letter and they work for the developer; residents have to call them about these fees. The Town has nothing to do with it. As a resident I called them and asked if they would meet with the residents and explain and they said no, it is within the deed.
- f.* Mr. Mack said the last time they were to meet with them they didn't show up.
- g.* CM Ness stated TVI has the same management company; you have to call and question them.
- h.* Mr. Haines asked why the kiosk at Diamond State is so bright.
- i.* TM Green stated our inspector is looking into it.

**XI. Adjournment: 8:17 pm, Mayor Hatton ended the meeting.**

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